

UNITED STATES TAX COURT  
WASHINGTON, DC 20217

ROBERT W. HERRIMAN,	)	
	)	
Petitioner,	)	
	)	
v.	)	Docket No. 25048-11
	)	
COMMISSIONER OF INTERNAL REVENUE,	)	
	)	
Respondent.	)	
	)	

**ORDER TO SHOW CAUSE**

This case for the redeterminations of deficiencies is before the Court on respondent's Motion to Dismiss for Failure to State a Claim upon which Relief Can Be Granted and to Impose a Penalty Under I.R.C. § 6673, filed December 14, 2011. According to respondent's motion, the petition in this case, filed in response to a notice of deficiency dated August 17, 2011 (notice), fails to raise any justiciable issue. According to the notice, petitioner received certain income during 2006 and 2008 that he failed to report on his Federal income tax returns filed for those years.

In his petition, petitioner admits to the receipt of the income attributed to him in the notice but alleges that this "remuneration" for the services he provided to his employer(s) is not "gross income" with the meaning of the Internal Revenue Code. He is wrong in that regard, and nothing else needs to be said on the point. Respondent's motion is well-made, and the Court is inclined to grant respondent's motion with respect to the determinations made in the notice.

Respondent's motion, however, also requests the imposition of an I.R.C. § 6673 penalty. To that extent, petitioner will be given an opportunity to explain, or more appropriately withdraw, the ill-advised or ill-conceived position(s) taken in the petition.

Premises considered, it is

ORDERED that on or before April 30, 2012, petitioner show cause in writing why the position(s) he has taken in this matter should not subject him to the imposition of an I.R.C. § 6673 penalty.

**(Signed) Lewis R. Carluzzo**  
**Special Trial Judge**

Dated: Washington, D.C.  
April 6, 2012

**SERVED Apr 06 2012**